QUESTION 1

The synopsis of facts given hereafter is based on the case of S v Humphreys (424/12) [2013] ZASCA 20.

On 25 August 2010 the accused, Jacob Humphreys, a taxi driver, transported 14 school children to school. The accused had been transporting the children to and from the school for the past year and a half. He knew the children and they felt like his own children.

At a railroad crossing the warning light was on indicating that a train was oncoming and cars were stationary waiting for the train to pass. According to witnesses the accused bypassed the queue of stationary cars by entering the lane for oncoming traffic. He then, despite the boom gate being lowered and the warning light indicating an oncoming train, bypassed the boom gate and entered the train crossing.

It was allegedly not the first time the accused had acted in such a manner but in the past he had always succeeded in crossing the rail road successfully. However, on this fateful day, the taxi was hit by the train.

A witness stated that the warning light of the oncoming train is switched on as soon as the train has left the last station whereupon the boom gate closes which prohibits traffic from entering the railroad crossing until the train has passed. The train also has its main lights on and sounds a siren 400 metres from the crossing to warn traffic of the train.

As a consequence of the collision between the train and the taxi, 10 children died instantly and 4 children sustained serious internal as well as external injuries. The accused escaped the collision unscathed.

The accused was prosecuted in the Western Cape High Court, Cape Town. The state prosecuted the accused on 10 counts of murder, in the alternative, culpable homicide

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Thomas Griffiths

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Table of Contents May June Criminal Law Question Paper 2013

- 1. Understanding the eBook May June Criminal Law Question Paper 2013
 - The Rise of Digital Reading May June Criminal Law Question Paper 2013
 - Advantages of eBooks Over Traditional Books
- 2. Identifying May June Criminal Law Question Paper 2013
 - Exploring Different Genres
 - o Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
- 3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an May June Criminal Law Question Paper 2013
 - User-Friendly Interface
- 4. Exploring eBook Recommendations from May June Criminal Law Question Paper 2013
 - Personalized Recommendations
 - $\,\circ\,$ May June Criminal Law Question Paper 2013 User Reviews and Ratings
 - May June Criminal Law Question Paper 2013 and Bestseller Lists
- 5. Accessing May June Criminal Law Question Paper 2013 Free and Paid eBooks
 - May June Criminal Law Question Paper 2013 Public Domain eBooks
 - May June Criminal Law Question Paper 2013 eBook Subscription Services
 - May June Criminal Law Question Paper 2013 Budget-Friendly Options

- 6. Navigating May June Criminal Law Question Paper 2013 eBook Formats
 - o ePub, PDF, MOBI, and More
 - May June Criminal Law Question Paper 2013 Compatibility with Devices
 - May June Criminal Law Question Paper 2013 Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - o Adjustable Fonts and Text Sizes of May June Criminal Law Question Paper 2013
 - Highlighting and Note-Taking May June Criminal Law Question Paper 2013
 - Interactive Elements May June Criminal Law Question Paper 2013
- 8. Staying Engaged with May June Criminal Law Question Paper 2013
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers May June Criminal Law Question Paper 2013
- 9. Balancing eBooks and Physical Books May June Criminal Law Question Paper 2013
 - Benefits of a Digital Library
 - o Creating a Diverse Reading Collection May June Criminal Law Question Paper 2013
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine May June Criminal Law Question Paper 2013
 - Setting Reading Goals May June Criminal Law Question Paper 2013
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of May June Criminal Law Question Paper 2013
 - Fact-Checking eBook Content of May June Criminal Law Question Paper 2013
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements

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